

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Kansas City Power & Light)	<u>Case No. ER-2014-0370</u>
Company's Request for Authority to Implement)	Tariff No. YE-2015-0194
a General Rate Increase for Electric Service)	Tariff No. YE-2015-0195

**STAFF'S RECOMMENDATION THE COMMISSION PROVIDE ADDITIONAL NOTICE
AND OPPORTUNITY TO INTERVENE**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), and for its recommendation the Commission provide notice to the signatories to the Stipulation and Agreement filed March 28, 2005¹ in Case No. EO-2005-0329 (the “KCPL Reg. Plan”) who have not intervened in this case and allow them an additional opportunity to intervene for the limited purpose of addressing the impact of the KCPL Reg. Plan on Kansas City Power & Light Company’s (“KCPL”) proposal in this case to implement a fuel adjustment clause (“FAC”), states:

1. The signatories to the KCPL Reg. Plan who are not parties to this case² are: the Missouri Department of Natural Resources; Ford Motor Company; KCP&L Greater Missouri Operations Company (then named Aquila, Inc.); The Empire District Electric Company; and the Missouri Joint Municipal Electric Utility Commission.

2. Germane to this case, one of the provisions of the KCPL Reg. Plan (III.B.1.c., p. 7) states:

¹ On July 28, 2005, the Commission issued a *Report and Order* in Case No. EO-2005-0329 which, among other things, ordered the signatory parties to the March 28, 2005 Stipulation and Agreement to “abide by all of the terms and requirements in the March 28, 2005 Stipulation and Agreement.”

² For purposes of this case, Praxair, Inc., which was an individual signatory to the KCPL Reg. Plan, appears to be a member of Midwest Energy Consumers’ Group (“MECG”) which has been granted intervention in this case.

c. Single-Issue Rate Mechanisms

KCPL agrees that, prior to June 1, 2015, it will not seek to utilize any mechanism authorized in current legislation known as “SB 179” or other change in state law that would allow riders or surcharges or changes in rates outside of a general rate case based upon a consideration of less than all relevant factors. In exchange for this commitment, the Signatory Parties agree that if KCPL proposes an Interim Energy Charge (“IEC”) in a general rate case filed before June 1, 2015 in accordance with the following parameters, they will not assert that such proposal constitutes retroactive ratemaking or fails to consider all relevant factors: [list of parameters omitted]

3. Despite its commitment “that, prior to June 1, 2015, it will not seek to utilize any mechanism authorized in current legislation known as “SB 179” or other change in state law that would allow riders or surcharges or changes in rates outside of a general rate case based upon a consideration of less than all relevant factors,” on October 30, 2014, KCPL filed its application, with accompanying testimony and tariff sheets, initiating this general electric rate increase case in which it seeks to implement a fuel adjustment clause—a mechanism authorized by SB 179.³

4. The Commission now has pending before it in this rate case the issue of the interpretation of the portion of the KCPL Reg. Plan set forth above. The Commission previously referenced this issue in Case No. EU-2014-0077⁴ in its July 30, 2014 *Report and Order* and its October 15, 2014 *Order Denying Application for Clarification*. On page 11 of the *Report and Order* issued July 30, 2014, the Commission stated that “As part of a general rate case, KCP&L **may seek** an FAC to include transmission costs **in June of 2015.**” (Emphasis added) However, in the subsequently-issued *Order Denying*

³ SB 179 is now § 386.266 RSMo.

⁴ In the Matter of the Application of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company for the Issuance of an Accounting Authority Order relating to their Electrical Operations and for a Contingent Waiver of the Notice Requirement of 4 CSR 240-4.020(2).

Application for Clarification, the Commission basically decided that the interpretation of the KCPL Reg. Plan was not ripe for determination in that case and stated on pages 2 -3 that “The Commission is not directing KCP&L on when KCP&L **may file** a rate case requesting an FAC for transmission costs **or** when KCP&L **may implement** such an FAC. Any decisions regarding the interpretation of the 2005 settlement agreement may be determined in a future rate case.” (Emphasis added)

5. In its *Order Approving Stipulation and Agreement* issued on June 5, 2014, in Case No. EO-2014-0095,⁵ in which the Commission approved an agreement which the Commission found to be “inconsistent with”⁶ the provision of the KCPL Reg. Plan set forth above and in which the Commission stated “[t]he parties in this case [*i.e.*, the EO-2014-0095 case] are essentially asking the Commission to modify the 2005 agreement [*i.e.*, the KCPL Reg. Plan],”⁷ the Commission specifically noted that the signatories to the KCPL Reg. Plan were either parties to the EO-2014-0095 case or had been contacted about the proposed EO-2014-0095 agreement and none had voiced any opposition thereto.

6. Since the interpretation of the provision of the KCPL Reg. Plan set forth above is now coming before the Commission in this case and since the Commission’s October 31, 2014, *Order Directing Notice, Setting Intervention Deadline, and Setting Procedural Conference* did not provide notice that KCPL is seeking an FAC in this case, Staff recommends the Commission provide additional notice directly to the signatories

⁵ In the Matter of Kansas City Power & Light Company’s Filing for Approval of Demand-Side Programs and for Authority to Establish a Demand-Side Programs Investment Mechanism.

⁶ *Id.* page 2.

⁷ *Id.* page 3.

to the KPCL Reg. Plan who have not intervened in this case⁸ (*i.e.*, the Missouri Department of Natural Resources; Ford Motor Company; KCP&L Greater Missouri Operations Company (then named Aquila, Inc.); The Empire District Electric Company; and the Missouri Joint Municipal Electric Utility Commission) or direct KCPL to provide them notice and certify that it has done so, that KCPL is seeking an FAC in this case, and allow those signatories an additional opportunity to intervene in this case for the limited purpose of addressing the impact of the KCPL Reg. Plan on KCPL's proposal to implement an FAC.

WHEREFORE, Staff recommends that the Commission provide, or direct KCPL to provide and certify it has done so, notice to the signatories to the Stipulation and Agreement filed March 28, 2005 in Case No. EO-2005-0329 who have not intervened in this case that KCPL is seeking an FAC in this case, and allow them an additional opportunity to intervene for the limited purpose of addressing the impact of that 2005 settlement agreement on KCPL's proposal to implement an FAC.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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⁸ For purposes of this case, Praxair, Inc., which was an individual signatory to the KCPL Reg. Plan, appears to be a member of Midwest Energy Consumers' Group ("MECG") which has been granted intervention in this case.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel for all parties of record this 19th day of February, 2015.

/s/ Jeffrey A. Keevil